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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,048	09/28/2001	Athanasios A. Kasapi	42P28115	4810

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EXAMINER	
NGUYEN, KHAI MINH	
ART UNIT	**PAPER NUMBER**
2617	
MAIL DATE	**DELIVERY MODE**
02/18/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/967,048	**Applicant(s)** KASAPI, ATHANASIOS A.	
	Examiner KHAI M. NGUYEN	**Art Unit** 2617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/VINCENT P. HARPER/
Supervisory Patent Examiner, Art Unit 2617

Regarding claim 1-9 and 11-22, Applicant argues, on pages 2-4 of the remarks, that Buehrer in view of Boariu do not disclose, teach, or suggest " (1) generating a plurality of sub-carriers to redundantly transmit the information over a multi-carrier wireless communication channel; (2) wherein each of the sub-carriers is to be transmitted over an array of two or more antennas; (3) wherein each of the sub-carriers is modified by a set of complex weights to ensure that each of the sub-carriers of the wireless communication channel propagates along a different physical path to the receiver; (4) wherein the set of complex weights used to modify each of the sub-carriers includes different weights for each of the two or more antenna of the array."

The Examiner respectfully disagrees with Applicant's argument because the current claim language is broad enough to be met by Buehrer in view of Boariu.

Buehrer in view of Boariu clearly disclose:

(1) generating a plurality of sub-carriers (see Buehrer, [0013] The transmission matrix maps the user data symbols onto the Walsh codes for each antenna and is preferably designed such that its columns are representative of the transmit antennas and are orthogonal. Similar redistribution occurs for each of the M transmit antennas such that the respective component in each of the M transmit signals associated with a given mobile's data signal modulates a unique Walsh code) to redundantly transmit (see Buehrer, abstract (each transmit antenna transmits a signal representing the result of the modulation of Walsh codes by data signals for each of the K mobiles (use the same data for each antennas))) the information over a multi-carrier wireless communication channel (see Buehrer, fig.1, [0061]);

(2) wherein each of the sub-carriers (see Buehrer, fig.2, item 202) is to be transmitted over an array of two or more antennas (see Buehrer, antennas 1 and 2);

(3) wherein each of the sub-carriers is modified by a set of complex weights to ensure that each of the sub-carriers of the wireless communication channel propagates along (see Boariu, col.24, line 41 to col.25, line 13) a different physical path (see Boariu, fig.3, items 314, 316, and 318) to the receiver (see Boariu, fig.3, item 322);

(4) wherein the set of complex weights (different Walsh codes/see Boariu, symbols) used to modify each of the sub-carriers includes different weights (different Walsh codes/see Boariu, symbols) for each of the two or more antenna of the array (see Buehrer, [0091] The two modulated signals are then combined in summer 938-1 and transmitted by Antenna 1 as s1(t). As mentioned, s2(t) and s3(t) for Antenna 1 and s1(t), s2(t) and s3(t) for Antenna 2 are formed in a similar manner, see Boariu, col.24, lines 34-37).

/Khai M Nguyen/
Examiner, Art Unit 2617